

SENATE BILL NO. 22

INTRODUCED BY S. DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE GENERAL FUND SHORTFALL IN REVENUE BY ELIMINATING THE CORPORATE INCOME TAX DEDUCTION AND CORPORATE LICENSE TAX DEDUCTION FOR SALARIES OR BONUSES PAID TO AN OFFICER OF A PUBLICLY TRADED CORPORATION IF THAT CORPORATION EXPERIENCES A 50 PERCENT OR MORE DECLINE IN THE VALUE OF THE CORPORATION'S PUBLICLY TRADED STOCK DURING THE CORPORATION'S TAXABLE PERIOD; AMENDING SECTION 15-31-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. (1) In computing the net income, the following deductions are allowed from the gross income received by the corporation within the year from all sources:

(a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation contained in this section, and rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income derived from outside the state, salaries of officers paid in connection with securing the income are deductible. A deduction is not allowed for salaries or bonuses paid to an officer of a publicly traded corporation if that corporation experiences a 50% or more decline in the value of the corporation's publicly traded stock during the corporation's taxable period.

(b) (i) all losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation must be the same as the

elections made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and a deduction may not be made for any amount of expense of restoring property or making good the exhaustion of property for which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant as defined in 33-25-105(15).

(ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of 15-31-119.

(c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements. The reasonable allowance must be determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for corporation license tax purposes must be the same as the elections made for federal income tax purposes.

(d) the amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from the property or business would be taxable under this part.

(e) (i) taxes paid within the year, except the following:

(A) taxes imposed by this part;

(B) taxes assessed against local benefits of a kind tending to increase the value of the property assessed;

(C) taxes on or according to or measured by net income or profits imposed by authority of the government of the United States;

(D) taxes imposed by any other state or country upon or measured by net income or profits.

(ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school district, or municipality of this state.

(f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

(g) (i) except as provided in subsection (1)(g)(ii), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, as amended.

(ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion

1 of contributions made under this subsection.

2 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
3 81-7-118, or 81-7-201.

4 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
5 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological
6 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
7 postsecondary school located in Montana if:

8 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
9 substantially completed;

10 (b) the property is not transferred by the donee in exchange for money, other property, or services; and

11 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the
12 property and representing that the use and disposition of the property will be in accordance with the provisions
13 of subsection (2)(b).

14 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
15 defined in section 851(a) or 851(h) of the Internal Revenue Code of 1986, as that section may be amended or
16 renumbered, there is allowed a deduction for dividends paid, as defined in section 561 of the Internal Revenue
17 Code of 1986, as that section may be amended or renumbered, except that the deduction for dividends is not
18 allowed with respect to dividends attributable to any income that is not subject to tax under this chapter when
19 earned by the regulated investment company. For the purposes of computing the deduction for dividends paid,
20 the provisions of sections 852(b)(7) and 855 of the Internal Revenue Code of 1986, as those sections may be
21 amended or renumbered, apply. A regulated investment company is not allowed a deduction for dividends
22 received as defined in sections 243 through 245 of the Internal Revenue Code of 1986, as those sections may
23 be amended or renumbered."

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25 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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27 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
28 meaning of 1-2-109, to the tax year beginning after December 31, 2001.

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